MT LEGISLATIVE HISTORY

Chapter 13 1974

Bill H _____ (S) 529 Original bill & hist. ___C

H. Committee on Judiciary S. Committee on Judiciary

Hearing Date(s)	Jan 30	✓ C	Hearing Date(s)	Jan 11	✓ C
	_____	___C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C		_____	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

43RD LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
525	1/10	1/17,22,25	1/25			1/25			
527	1/10	1/11	1/11	1/11					
529	1/10	1/11	1/11	1/11					
543	1/11	1/21,23	1/23		1/23				
556	1/12	1/17,18,23	1/23			1/23			
564	1/12	2/12,14,21	2/14		2/14				
565	1/14 2/5,18	1/21,1/30 2/8,18	1/30 2/8,18	(as amended)	2/18	1/30 2/8			
566	1/14	1/30	1/30	1/30					
578	1/15	1/21 2/12,14	2/14		2/14				
584	1/15		RE-REFERRED						
597	1/18	2/6, 7	2/7		2/7				
598	1/18	2/6, 7	2/7		2/7				
611	1/16	1/24 2/7, 12							
621	1/16	1/24	1/24			1/24			
630	1/24,2/12	1/31,2/5 2/14	REREFERRED ON 2/5 2/14			2/14			
638	1/17	2/5,14	2/14		2/14				
639	1/17	2/8	2/8		2/8				

(Use Separate Sheet for Senate, House Bills, and Resolutions)

SB No. 505-- The following witness was present to testify in support of the bill:

Captain Duane B. Tooley, Examiner for Highway Patrol

Captain Tooley explained the legislation and said that when the HW Patrol receives notices from the Dominion of Canada, for a severe traffic offense, under the present law they cannot revoke them. He said that if the offense committed is similar to Montana laws, it should be revokable. Canadian suspensions would not be necessarily honored in Montana.

Senator Drake moved to recommend that this bill DO PASS, seconded by Senator Hall. Motion carried unanimously.

SB No. 516--Senator Turnage moved that this bill be RE-REFERRED TO THE COMMITTEE ON TAXATION. Senator Moore seconded. Motion carried unanimously.

SB No. 527--Senator Turnage moved that this bill DO PASS; seconded by Senator Moore. Motion carried unanimously.

SB No. 529--Senator Moore moved that this bill DO PASS, seconded by Senator Turnage. Motion carried unanimously.

The following hearings were set:

SB No. 519--January 16, 11: a.m. (Wednesday)

SB No. 473--January 18, adjournment (Friday)
HB No. 528

There being no further business, the meeting was adjourned at 12:10 p.m., to reconvene Wednesday, January 16, 1974, at 11:00 a.m.

LUKE MCKEON, Chairman

ROLL CALL

SENATE JUDICIARY COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 1-11-74

NAME	PRESENT	ABSENT	EXCUSED
Luke McKeon	✓		
Pat Gilfeather			✓
Paul Boyland	✓		
Mrs. Boots Hall	✓		
Miles Romney	✓		
Glenn Drake	✓		
Tom Harrison	✓		
Jim Moore	✓		
Jean Turnage	✓		

Each day attach to minutes

43rd Legislative Assembly

2nd Session

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
SB 527	Providing a procedure permitting a handwriting expert residing & having his place of business outside the county or state to examine, etc.	1/16/74	1/30/74		1/30/74	BE CONCURRED IN	
SB 529	To amend section 94-6-203, RCM adding provisions to the definition of criminal trespass to property.	1/16/74	1/28/74		1/30/74	BE NOT CONCURRED IN	
HB 908	To provide an additional method of enforcement of mechanic's and materialmen's liens.	1/17/74	1/25/74		1/26/74	DO PASS	Indefinite Postponed On 2nd Reading in Senate
HB 909	Adopting the uniform alcoholism & intoxication act, increasing the tax on alcoholic beverages to create a fund, etc.	1/17/74	1/28/74		2/14/74	DO PASS AS AMENDED	Governor
HB 912	Abolishing the old board of pardons; & repealing section 82-903, RCM 1947.	1/17/74	1/25/74		1/25/74	DO PASS	Signed By Governor
HB 970	Amending section 93-301, RCM 1947, to create the nineteenth judicial district of Montana	1/17/74	1/25/74		1/29/74	DO P ASS AS AMENDED	Killed In Senate Judiciary

Opponent Jack McDonald with Mountain Bell stated he objects to the limitation placed on computer regulations and also he objects to the limitation placed on wire-tapping. Opponent Jack Williams representing Chiefs of Police Association in Montana urged the committee to go slow on this bill. Opponent Tom Honzel representing County Attorneys Association is opposed to certain parts of the bill, primarily the surveillance part. No further opponents or proponents. Hearing closed.

HOUSE BILL 1060 Representative Yardley, chief sponsor, stated he would ask Mr. Tom Honael to present testimony. Mr. Honzel stated this bill would clarify penalties for possession of marijuana and make them easier to understand. One judge is concerned about the way penalty law is presently written. One oversight in drafting of bill in third sentence which was meant to apply only to marijuana. Subsection c is the law as it is now. Subsection d is the age limit of twenty one for deferred imposition. No other proponents. Opponent Robert J. Campbell, attorney and pharmacist, offered an amendment which would delete line 25 on page 1 after the words "first offense" thru page 2, line 3 thru word "imprisonment" and insert in lieu thereof the new material "shall be punished by fine not to exceed $100.00", and provided other testimony (see exhibit). Also requested that jurisdiction be placed in the justice of the peace court instead of the district court. Proponent Tom Honzel requested an amendment making the bill effective upon passage. No further proponents or opponents. Following questioning by committee members during which Representative Lucas stated that he thought Mr. Campbell's proposed amendment was beyond the scope and intent of the measure and Representative Marbut pointed out why he didn't think it was and question by Representative Greely as to whether making sentence for first offense wouldn't still be on the record the hearing was closed.

SENATE BILL 483 Senator P. J. Gilfeather, chief sponsor, stated this bill is proposed to change the statutes of the State of Montana regarding acknowledgements on oath or affirmation of a credible witness. He feels we should have more legality and that as of now it is weak. If we adopt the Probate Code feels acknowledgement should be strengthened. No other proponents. No opponents. Hearing closed following brief questioning by committee.

SENATE BILL 527 Senator P. J. Gilfeather, chief sponsor, stated this bill makes a provision for what you do if come in and have a will where witness or testators signature is questioned. Under these circumstances with this measure can go to court and get a handwriting expert from another territory to examine handwriting after the expert himself has been verified to be an expert. This should help to save money for those needing to verify a signature. No proponents. No opponents. Following brief questioning by committee members the hearing was closed.

SENATE BILL 527 Representative Towe stated he thinks this is a good bill and moved BE CONCURRED IN. Motion carried. Representative Baucus will carry.

Following motion to adjourn the committee adjourned at 10:28 AM.

DAN YARDLEY, VICE-CHAIRMAN

DY:pb

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 26-907, R.C.M. 1947, is amended to read as follows:

"26-907. **Taxidermist's license — fee — penalty for violations.** Any person who shall engage in, or who is at the present time engaged in conducting any taxidermist business, as the term is generally understood, or any person who conducts a business for the purpose of mounting, preserving or preparing any of the dead bodies of any birds, or animals, or any part thereof, mentioned in the game laws of this state, must first obtain from the state fish and game director a taxidermist's license and shall pay an annual license fee of fifteen dollars ($15.00) therefor. Such person shall, keep a written record of all the articles of game, the kind and number of each, by whom owned, and the residence of owner, also of all the articles of game shipped, and to whom and where shipped. The above record shall be kept for at least a period of one (1) year and open to inspection by any state game warden at any reasonable time. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by section 26-324. In all cases of conviction of violation of this act the license of the person convicted shall be revoked."

Approved February 8, 1974

CHAPTER NO. 11

AN ACT AMENDING SECTION 43-1005, R.C.M. 1947, TO REMOVE CERTAIN LIMITATIONS ON THE RIGHT TO REQUEST A FISCAL NOTE ON A BILL.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 43-1005, R.C.M. 1947, is amended to read as follows:

"43-1005. **Note requested by committee or house.** A fiscal note also may be requested on a bill, *as the joint rules of the senate and the house of representatives may allow,* by:

(1) A committee considering the bill, or

(2) A majority of the members of the house in which the bill is to be considered, at the time of second reading*; or*

(3) The sponsor through the presiding officer."

Approved February 12, 1974

CHAPTER NO. 12

AN ACT AMENDING SECTION 39-107, R.C.M. 1947, AND REPEALING SECTIONS 39-118 AND 39-119, R.C.M. 1947, TO DELETE THE PROVISION FOR ACKNOWLEDGMENTS ON OATH OR AFFIRMATION OF A CREDIBLE WITNESS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-107, R.C.M. 1947, is amended to read as follows:

"39-107. **Officer taking acknowledgment must know person —corporations.** The acknowledgment of an instrument must not be taken unless the officer taking it knows or has satisfactory evidence that the person making such acknowledgment is the individual who is described in and who executed the instrument; or, if executed by a corporation, that the person making such acknowledgment is the president, or vice-president, or secretary, or assistant secretary of such corporation, or other person duly authorized by resolution of such corporation, who executed it on its behalf."

Section 2. Sections 39-118 and 39-119, R.C.M. 1947, are repealed.

Approved February 12, 1974

CHAPTER NO. 13

AN ACT PROVIDING A PROCEDURE PERMITTING A HANDWRITING EXPERT RESIDING AND HAVING HIS PLACE OF BUSINESS OUTSIDE THE COUNTY OR STATE TO EXAMINE THE SIGNATURES ON THE ORIGINAL COPY OF A WILL.

Be it enacted by the Legislature of the State of Montana:

Section 1. **Petition by party requesting handwriting analysis.** In any proceeding involving the probate, either contested or uncontested, of a will, in which the signature of the testator or of any witness is an issue, any party to the proceeding may file with the court a verified petition requesting that the original will be delivered to a handwriting expert residing and having his place of business outside the state or outside the county, for an examination of any of the signatures on the will.

Section 2. **Court to determine necessity of procedure, qualifications of expert.** The court, upon notice and hearing, shall determine whether the procedure is justified by the circumstances of the case and whether the handwriting expert specified in the petition is a qualified professional handwriting expert.

Section 3. **Clerk to mail will — notice.** If the court grants the peti-

tion for delivery of the original will to a qualified handwriting expert residing and having his place of business outside the county or state, the clerk of court shall make at least two (2) photocopies of the original will, which photocopies shall remain in the custody of the clerk of court. The clerk shall mail the original will by registered mail, return receipt requested, to the handwriting expert specified in the order and shall give notice of the mailing by mailing copies of the order to each of the parties to the proceeding and to the handwriting expert.

Section 4. **Expert to return will to clerk.** Upon completion of his analysis, the handwriting expert shall return the original will to the clerk of court by registered mail, return receipt requested.

Section 5. **Disposition of written report.** Unless the court orders another disposition of the written report, the handwriting expert, upon completion of his analysis, shall mail his written report to the party who requested it.

Section 6. **Petitioner to pay all fees.** All fees and expenses arising from the procedure outlined in this act, including the cost of photocopying the will, the expense of all registered mailings and the handwriting expert's fee, shall be paid by the party requesting the handwriting analysis.

Section 7. **Report property of petitioner unless interested party shares fees.** Unless the court otherwise orders, the handwriting expert's written report shall be the sole and exclusive property of the party requesting it; provided however, that upon demand and the payment of his pro rata share of the fees and costs of the handwriting expert, as shall be determined by the court, any interested party may obtain a certified copy of the written report.

Approved February 12, 1974

CHAPTER NO. 14

AN ACT AMENDING SECTION 79-301, 79-302 AND 79-306, R.C.M. 1947, RELATING TO THE DEPOSIT OF PUBLIC MONEYS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 79-301, R.C.M. 1947, is amended to read as follows:

"79-301. **Deposit of funds in the hands of the state treasurer.** *(1) Under the direction of the board of investments, the state treasurer shall deposit public moneys in his possession and under his control in solvent banks, building and loan associations, and savings and loan associations located in the state, except as otherwise provided by law, subject to national supervision or state examination. The board of investments may require the payment of quarter annual interest on daily balances of collected funds at a rate to be agreed upon between the depository banks, building and loan associations, and savings and loan associations and the board of investments, which rate shall be fixed semiannually during the months of July and January of each year.*

(2) No such deposits in excess of the amount insured by the federal deposit insurance corporation or federal savings and loan insurance corporation shall be made unless the bank, building and loan association and savings and loan association first delivers to the state treasurer or deposits in trust with some solvent bank as hereinafter provided, as security therefor, bonds or other obligations of the kinds listed in section 4 of this act, having a market value at least equal to the amount of such deposits in excess of the amount so insured. The board of investments may require security of a greater value. When negotiable securities are placed in trust, the trustees' receipt may be accepted instead of the actual securities if the receipt is in favor of the state treasurer, his successors in office, and the state of Montana, and the form of receipt and the trustee have been approved by the board of investments.

(3) When moneys have been deposited, under the board of investments and in accordance with the law, the treasurer is not liable for loss on account of any such deposit occurring from any cause other than his own neglect or fraud. The state treasurer shall deposit funds in such banks, building and loan associations and savings and loan associations, and in such amounts as may be designated by the board of investments, and withdraw such deposits when instructed to by the board of investments. The state treasurer shall withdraw all deposits, or any part thereof, from time to time, to pay and discharge the legal obligations of the state, duly presented to him in accordance with the law.

(4) Any bank, building and loan association and savings and loan association pledging securities as provided in this section may at any time substitute securities for any part of the securities pledged. The collateral so substituted shall conform to section 4 of this act and have a market value at least sufficient for compliance with subsection (2) above. If the securities so substituted are held in trust, the trustee shall, on the same day the substitution is made, forward by registered or certified mail to the state treasurer and to the depository bank, a receipt specifically describing and identifying both the securities substituted and those released and returned to the depository bank."

Section 2. Section 79-302, R.C.M. 1947, is amended to read as follows:

"79-302. **Interest requirements on Montana public funds — federal conformity.** The interest requirements on deposits of public funds under the laws of the state of Montana or otherwise by county, city and town treasurers shall not at any time be in violation of any act of the Congress of the United States or of any rule or regulation of the federal reserve system, *Federal Home Loan Bank System,* or the Federal Deposit Insurance Corporation, *Federal Savings and Loan Insurance Corporation* or any other fiscal agency of the United States or created by it, of which the banks, *building and loan associations or savings and loan associations* of this state generally may be members or debtors.

Section 3. Section 79-306, R.C.M. 1947, is amended to read as follows: